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MAINE CODE OF JUDICIAL CONDUCT

PREAMBLE.

Our legal system is based on the principle that an independent, fair and competent judiciary is essential to our concepts of justice and the rule of law. The judge, as arbiter of facts and law for the resolution of disputes, is a highly visible symbol of government under the rule of law. Accordingly, the Maine Code of Judicial Conduct is founded on the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and must strive to maintain and enhance public confidence in our legal system.

This Code is intended to establish basic standards to govern the conduct of all Maine judges. The Canons set forth in Part I are broad statements of ethical duties. The sections arrayed under each Canon set forth specific rules of ethical conduct. The Canons, the sections under them, and the Applicability, Compliance and Definitions sections set forth in Part II are authoritative. In the Code, the words "shall" or "shall not" impose binding obligations, the violation of which can result in disciplinary action. The use of "should" or "should not" is intended as a hortatory statement of what is appropriate or inappropriate conduct but not as a binding rule under which discipline may be imposed. When "may" is used, it denotes permissible discretion or, in certain contexts, refers to action that is not covered by specific proscriptions.

The Code sets forth rules of reason. It is to be applied consistent with constitutional requirements, statutes, rules of court, decisional law, and common sense and in the context of all relevant circumstances. The Code is to be construed so as not to impinge on the essential independence of judges in making judicial decisions.

The Code is designed to provide standards for the regulation of judicial conduct through disciplinary proceedings when necessary. It is not intended, however, that every transgression will result in disciplinary action. Whether disciplinary action is appropriate, and the degree of discipline to be imposed, should be determined through a reasonable and reasoned application of the Code and should depend on such factors as the seriousness of the transgression, whether there is a pattern of improper activity, and the effect of the improper activity upon others or upon the judicial system.

The Code is not intended as a basis for civil liability or criminal prosecution. Furthermore, the purpose of the Code would be subverted if lawyers were to invoke its provisions for mere tactical advantage in a civil or criminal proceeding.

The Code is not intended as an exhaustive guide to conduct. Judges should also be governed in their judicial and personal activities by general ethical standards. The Code, however, is intended to provide guidance for judges in establishing and maintaining the highest standards of judicial and personal conduct.

MAINE CODE OF JUDICIAL CONDUCT

PART I. CANONS

CANON 1 A Judge Shall Uphold the Integrity and Independence of the Judiciary.

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining and enforcing high standards of conduct, and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved. The provisions of this Code are to be construed and applied to further that objective.

CANON 2 A Judge Shall Avoid Impropriety and the Appearance of Impropriety in All of the Judge's Activities.

A. Promotion of Public Confidence. A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

B. Preventing Improper Influence. A judge shall not allow family, social, political, or other relationships to influence the judge's judicial conduct or judgment. A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge. A judge shall not testify voluntarily as a character witness.

C. Organizations Practicing Unlawful Discrimination. A judge shall not hold membership in any organization that practices unlawful discrimination. A judge who is a member of such an organization at the effective date of this section C, or who learns at a later time that an organization of which the judge is a member practices such discrimination, may retain membership in the organization for a reasonable time not exceeding one year, but must resign if the organization does not discontinue its discriminatory practices within that time.

CANON 3 A Judge Shall Perform the Duties of Judicial Office Impartially and Diligently.

A. Judicial Duties in General. The judicial duties of a judge take precedence over all the judge's other activities. The judge's judicial duties include all the duties of the judge's office prescribed by law. In the performance of these duties, the standards set forth in sections B through E of this Canon apply.

B. Adjudicative Responsibilities.

(1) A judge shall hear and decide matters assigned to the judge except those in which disqualification is required.

(2) A judge shall be faithful to the law and maintain professional competence in it. A judge shall not be swayed by partisan interests, public clamor, or fear of criticism.

(3) A judge shall require order and decorum in proceedings before the judge.

(4) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity, and should require similar conduct of lawyers, and of staff, court officials, and others while subject to the judge's direction and control.

(5) A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status, and should not permit staff, court officials, and others while subject to the judge's direction and control to do so.

(6) A judge should require lawyers in proceedings before the judge to refrain from manifesting, by words or conduct, bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status, against parties, witnesses, counsel or others. This subsection (6) does not preclude legitimate advocacy when race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status, or other similar factors, are issues in the proceeding.

(7) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law. A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding except that:

(a) Where circumstances require, ex parte communications for scheduling, administrative purposes, or emergencies that do not deal with substantive matters or issues on the merits are authorized; provided:

(i) the judge reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication, and

(ii) the judge makes provision promptly to notify all other parties of the substance of the ex parte communication and allows a reasonable opportunity to respond.

(b) A judge may obtain the advice of a disinterested expert on the law applicable to a proceeding before the judge if the judge gives notice to the parties of the identity of the person consulted and the substance of the advice, and affords the parties a reasonable opportunity to respond.

(c) A judge may consult with court personnel, or persons appointed by the court, whose function is to aid the judge in carrying out the judge's adjudicative responsibilities, or with other judges.

(d) A judge may, with the consent of the parties, confer separately with the parties with or without their lawyers present, or separately with their lawyers alone, in an effort to mediate or settle matters pending before the judge.

(e) A judge may initiate or consider any ex parte communications when expressly authorized by law to do so.

(8) A judge shall dispose of all judicial matters promptly, efficiently, and fairly.

(9) A judge shall abstain from public comment about a pending or impending proceeding in any court, and shall require similar abstention on the part of court personnel while subject to the judge's direction and control. This subsection does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court. This subsection does not apply to proceedings in which the judge is a litigant in a personal capacity.

(10) A judge shall not commend or criticize jurors for their verdict other than in a court order or opinion in a proceeding, but may express appreciation to jurors for their service to the judicial system and the community.

(11) A judge shall not disclose or use, for any purpose unrelated to judicial duties, nonpublic information acquired in a judicial capacity.

C. Administrative Responsibilities.

(1) A judge shall diligently discharge the judge's administrative responsibilities without bias or prejudice and shall maintain professional competence in judicial administration. A judge should cooperate with other judges and court officials in the administration of court business.

(2) A judge shall require staff, court officials, and others while subject to the judge's direction and control to observe the standards of fidelity and diligence that apply to the judge and to refrain from manifesting bias or prejudice in the performance of their official duties.

(3) A judge with supervisory authority for the judicial performance of other judges shall take reasonable measures to assure the prompt disposition of matters before them and the proper performance of their other judicial responsibilities.

(4) A judge shall not make unnecessary appointments. A judge shall exercise the power of appointment impartially and on the basis of merit. A judge shall avoid nepotism and favoritism. A judge shall not approve compensation of appointees beyond the fair value of service rendered.

D. Disciplinary Responsibilities.

(1) A judge who receives information indicating a substantial likelihood that another judge has committed a violation of this Code should take appropriate action. A judge having knowledge that another judge has committed a violation of this Code that raises a substantial question as to the other judge's fitness for office shall inform the Committee on Judicial Responsibility and Disability or other appropriate authority.

(2) A judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Maine Bar Rules should take appropriate action. A judge having knowledge that a lawyer has committed a violation of the Maine Bar Rules that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects shall inform the Board of Overseers of the Bar or other appropriate authority and may take other appropriate action.

(3) Acts of a judge, in the discharge of disciplinary responsibilities, required or permitted by subsections (1) and (2) of this section are part of a judge's judicial duties and shall be absolutely privileged, and no civil action predicated thereon may be instituted against the judge.

E. Disqualification.

(1) A judge shall disqualify himself or herself on the judge's own initiative in any proceeding in which the judge has reason to believe that he or she could not act with complete impartiality. A judge acting under this subsection (1) need not state the grounds of disqualification.

(2) A judge may disqualify himself or herself on the judge's own initiative without stating the grounds of disqualification, and shall disqualify himself or herself on a motion for recusal made by a party, in any proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:

(a) the judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(b) the judge served as a lawyer in the matter in controversy, or a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter, or the judge has been a material witness concerning it;

(c) the judge knows that he or she, individually or as a fiduciary, or the judge's spouse, parent or child wherever residing, or any other member of the judge's family residing in the judge's household, has an economic interest in the subject matter in controversy or in a party to the proceeding or has any other more than de minimis interest that could be substantially affected by the proceeding;

(d) the judge or the judge's spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

(i) is a party to the proceeding, or an officer, director or trustee of a party;

(ii) is acting as a lawyer in the proceeding;

(iii) is known by the judge to have a more than de minimis interest that could be substantially affected by the proceeding;

(iv) is to the judge's knowledge likely to be a material witness in the proceeding.

(3) Unless a judge disqualifies himself or herself under subsections (1) or (2) of this section, a judge shall promptly disclose to the parties in any proceeding any fact known to the judge that is relevant to the question of impartiality and that the judge knows or reasonably ought to know could connect the judge, the judge's spouse, parent, or child wherever residing, or any other member of the judge's family residing in the judge's household to any of the parties, counsel, witnesses, or issues in the proceeding.

(4) Unless a judge disqualifies himself or herself under subsections (1) or (2) of this section, upon learning that a complaint has been filed against the judge with the Committee on Judicial Responsibility and Disability by a party or attorney involved in litigation pending before the judge, a judge shall promptly disclose to the parties to the pending litigation the fact that the complaint has been filed. The filing of a complaint does not, however, automatically require the judge to disqualify himself or herself. Disqualification is mandatory only if the requirements of subsections (1) or (2) are met. If a judge is notified by the Committee that a complaint by an unnamed

complainant against the judge has been received and dismissed, the judge shall not be required by this rule to inquire with the Committee as to the name of the complainant.

(5) A judge may decline to disqualify himself or herself in any proceeding in which disqualification might otherwise be required under subsections (1) or (2) of this section, if no other judge or court is available and disqualification will result in a failure of justice. In such a case, the judge shall disclose on the record the basis for disqualification and shall thereafter disqualify himself or herself if at any time it is possible to transfer the proceeding to another judge or court without a failure of justice.

CANON 4 A Judge Shall so Conduct the Judge's Extra-Judicial Activities as to Minimize the Risk of Conflict With Judicial Obligations.

A. Extra-Judicial Activities in General. A judge shall conduct all of the judge's extra-judicial activities so that they do not:

- (1) cast reasonable doubt on the judge's capacity to act impartially as a judge;
- (2) demean the judicial office; or
- (3) interfere with the proper performance of judicial duties.

B. Avocational Activities. A judge may speak, write, lecture, teach and participate in other extra-judicial activities concerning the law, the legal system, the administration of justice, and non-legal subjects, subject to the requirements of this Code.

C. Governmental, Civic or Charitable Activities.

(1) A judge shall not appear at a public hearing before, or otherwise consult with, an executive or legislative body or official except on matters concerning the law, the legal system or the administration of justice or except when acting pro se in a matter involving the judge or the judge's interests.

(2) A judge shall not accept appointment to any office that judges are prohibited to hold by Article VI, Section 5, of the Maine Constitution, or to any other

governmental committee, commission, or position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system, or the administration of justice. A judge may, however, represent a country, state, or locality on ceremonial occasions or in connection with historical, educational, or cultural activities.

(3) A judge may serve as an officer, director, trustee or non-legal advisor, or be a member of an organization, or where permitted under subsection (2) of this section a governmental agency, devoted to the improvement of the law, the legal system or the administration of justice or of an educational, religious, charitable, fraternal or civic organization not conducted for profit, subject to the following limitations and the other requirements of this Code.

(a) A judge shall not serve as an officer, director, trustee, or non-legal advisor if it is likely that the organization or agency:

(i) will be engaged in proceedings that would ordinarily come before the judge, or

(ii) will be engaged frequently in adversary proceedings in the court of which the judge is a member or in any court subject to the appellate jurisdiction of the court of which the judge is a member.

(b) A judge as an officer, director, trustee or non-legal advisor, or as a member or otherwise:

(i) may assist such an organization in planning fund-raising and may participate in the management and investment of the organization's funds, but shall not personally participate in the solicitation of funds or other fund-raising activities, except that a judge may: (a) solicit funds from other judges over whom the judge does not exercise supervisory or appellate authority; (b) be listed as an officer, director, or trustee of such an organization on its fund-raising letters, but may not sign that letter or be listed as a judge or as honorable; and (c) work at a fund-raising event so long as the judge's participation could not reasonably be perceived by others as directly soliciting funds.

(ii) may make recommendations to public and private fund-granting organizations on projects and programs concerning the law, the legal system, or the administration of justice;

(iii) shall not use or permit the use of the prestige of judicial office for fund-raising or membership solicitation, except that a judge's name may appear on the letterhead of membership solicitations sent out or distributed by an organization in which a judge is permitted to participate under the Code, but the judge may not sign a membership solicitation letter and the letter may not identify the judge by judicial title or by the court on which the judge serves. A judge should not be a speaker or the guest of honor at an event of the organization held primarily for fund-raising, but a judge may attend such events.

D. Financial Activities.

(1) A judge shall not engage in financial and business dealings that:

(a) may reasonably be perceived to exploit the judge's judicial position, or

(b) involve the judge in frequent transactions or continuing business relationships with those lawyers or other persons likely to come before the court on which the judge serves.

(2) A judge may, subject to the requirements of this Code, hold and manage investments of the judge and members of the judge's family, including real estate.

(3) A judge shall not serve as an officer, director, manager, general partner, advisor or employee of any business entity except that a judge may, subject to the requirements of this Code, manage and participate in:

(a) a business closely held by the judge or members of the judge's family, or

(b) a business entity primarily engaged in investment of the financial resources of the judge or members of the judge's family.

(4) Subject to any fiduciary obligations, a judge shall manage the judge's investments and other financial interests held or managed by the judge in a manner that will minimize the number of cases in which the judge is disqualified. As soon as the judge can do so without serious financial detriment or violation of any fiduciary obligation, the judge shall divest himself or herself of investments and other financial interests held or managed by the judge that might require frequent disqualification.

(5) A judge shall not accept, and shall urge the judge's spouse or dependent children not to accept, a gift, bequest, favor, or loan from anyone except for:

(a) a gift incident to a public testimonial, books, tapes, and other resource materials supplied by publishers on a complimentary basis for official use, or an invitation to the judge and the judge's spouse or guest to attend a bar-related function or an activity devoted to the improvement of the law, the legal system or the administration of justice;

(b) a gift, award, or benefit incident to the business, profession or other separate activity of a spouse or dependent child, including gifts, awards, and benefits for the use of both the spouse or child and the judge (as spouse or parent), provided the gift, award, or benefit could not reasonably be perceived as intended to influence the judge in the performance of judicial duties;

(c) ordinary social hospitality;

(d) a gift from a relative or friend, for a special occasion, such as a wedding, anniversary, or birthday, if the gift is fairly commensurate with the occasion and the relationship;

(e) a gift, bequest, favor, or loan from a relative or friend, if the relative or friend is one whose appearance or interest in a case would in any event require disqualification of the judge under Canon 3E;

(f) a loan from a lending institution in its regular course of business on the same terms generally available to persons who are not judges;

(g) a scholarship or fellowship awarded on the same terms and based on the same criteria applied to other applicants; or

(h) any other gift, bequest, favor, or loan, provided that the donor or lender is not a party or other person who has come or is likely to come or whose interests have come or are likely to come before the judge, and the judge reports it as provided in Canon 6.

E. Fiduciary Activities.

(1) A judge shall not serve as executor, administrator or other personal representative, trustee, guardian, attorney in fact, or other fiduciary, except for the estate, trust or person of a member of the judge's family, and then only if such service will not interfere with the proper performance of judicial duties.

(2) A judge shall not serve as a fiduciary if it is likely that the judge as a fiduciary will be engaged in proceedings that would ordinarily come before the judge. If the estate, trust, or ward becomes involved in adversary proceedings the judge shall not appear as counsel.

(3) The same restrictions on financial activities that apply to a judge personally also apply to the judge while acting in a fiduciary capacity.

F. Service as Arbitrator or Mediator. A judge shall not act as an arbitrator or mediator or otherwise perform judicial functions in a private capacity.

G. Practice of Law. A judge shall not practice law. Notwithstanding this prohibition, a judge may act pro se and may, without compensation, give legal advice to and draft or review documents for a member of the judge's family.

H. Compensation and Reimbursement. A judge may receive income, honoraria and reimbursement of expenses attributable to the extra-judicial activities permitted by this Code, if the source of such payments does not give the appearance of influencing the judge's performance of judicial duties or otherwise give the appearance of impropriety.

(1) Income and honoraria shall not exceed a reasonable amount nor shall they exceed what a person who is not a judge would receive as a result of the same activity.

(2) Expense reimbursement or payment shall be limited to the actual cost of travel, food, and lodging reasonably incurred by the judge and, where appropriate to the occasion, by the judge's spouse or guest and dependent children. Any payment in excess of such an amount shall be treated as an honorarium.

CANON 5 A Judge or Judicial Candidate Shall Refrain From Inappropriate Political Activity.

A. Political Conduct of Incumbent Judges.

(1) A judge shall not:

(a) act as a leader or hold an office in a political organization;

(b) publicly endorse or publicly oppose a candidate for public office;

(c) make speeches on behalf of a political organization;

(d) attend political gatherings;

(e) solicit funds for, pay an assessment to, or make a contribution to a political organization or candidate, or purchase tickets for political party dinners or other functions; or

(f) engage in any other political activity except as authorized under any other section of this Code or on behalf of measures to improve the law, the legal system, or the administration of justice.

(2) A judge who is a candidate for reappointment, or for appointment to another judicial or non-judicial office, shall also comply with the provisions of section B of this Canon.

(3) A judge shall resign from judicial office upon becoming a candidate for any elective office, except that a judge of probate may be a candidate for reelection while holding that office, provided that the judge complies with the provisions of section C of this Canon.

B. Political Conduct of Candidates Seeking Appointment to Judicial Office.

A candidate for appointment to judicial office:

(1) shall maintain the dignity appropriate to judicial office and act in a manner consistent with the integrity and independence of the judiciary.

(2) shall not:

(a) make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office;

(b) make statements that commit or appear to commit the candidate with respect to cases, controversies, or issues that are likely to come before the court; or

(c) knowingly misrepresent the identity, qualifications, present position, or other fact concerning the candidate or an opponent.

C. Political Conduct of Candidates for Election as Judge of Probate.

(1) A candidate for election or reelection as judge of probate shall comply with the applicable provisions of subsection A(1) and the provisions of section B of this Canon, except as provided in subsections C(2)-(4) of this Canon.

(2) A candidate for election or reelection as judge of probate may, while a candidate,

(a) speak to gatherings on his or her own behalf;

(b) appear in newspaper, television and other media advertisements supporting his or her candidacy;

(c) distribute pamphlets and other promotional campaign literature supporting his or her candidacy; and

(d) publicly endorse or publicly oppose any candidate for public office.

(3) A candidate for election or reelection as judge of probate shall not personally solicit or accept campaign contributions or personally solicit publicly stated support. A candidate may, however, establish committees of responsible persons to conduct campaigns for the candidate through media advertisements, brochures, mailings, candidate forums and other means not prohibited by law. Such committees may solicit and accept reasonable campaign contributions, manage the expenditure of funds for the candidate's campaign and obtain public statements of support for his or her candidacy. Such committees are not prohibited from soliciting and accepting reasonable campaign contributions and public support from lawyers. A candidate's committees may solicit contributions and public support for the candidate's campaign no earlier than one year before an election and no later than 90 days after the last election in which the candidate participates during the election year. A candidate

shall not use or permit the use of campaign contributions for the private benefit of the candidate or others.

(4) Except as prohibited by law, a candidate for election or reelection as judge of probate may permit the candidate's name: (a) to be listed on election materials along with the names of other candidates for elective public office, and (b) to appear in promotions of the ticket.

D. Applicability. A successful candidate, whether or not an incumbent, or an unsuccessful candidate who is an incumbent, is subject to judicial discipline for conduct in the course of seeking appointment or election that violates the provisions of this Canon 5; an unsuccessful candidate who is a lawyer is subject to lawyer discipline for conduct in the course of seeking appointment or election that violates the provisions of this Canon 5. A lawyer who is a candidate for judicial office is subject to Maine Bar Rule 3.2(c).

CANON 6 A Judge Shall File Annual Financial Disclosure Reports.

To avoid actual or apparent conflicts of interest and to assure compliance with Canons 3E and 4, a judge is required to file initial and annual financial disclosure reports to which the public has access. This requirement is a rule of reason and should not be interpreted to intrude unnecessarily on the privacy of a judge or others, including spouses or dependent children of judges. Nevertheless, the specific disclosure requirements of this Canon are minimum standards and are not intended to be all-inclusive. In case of doubt whether a particular disclosure is necessary to serve the purposes of this Canon, the decision should be in favor of disclosure.

A. Filing Required.

(1) Upon initial appointment or election to the judiciary of the State of Maine, a judge shall make a financial disclosure report to the Chief Justice containing the information set forth in paragraphs B(1)(e)-(j) of this Canon, and any information respecting a spouse or dependent child required under paragraphs B(2)(c)-(d) of this Canon, as of the date of the report. The report shall be filed with the Executive Clerk of the Supreme Judicial Court not more than 60 days after the date upon which the judge takes the oath of office.

(2) A judge who holds office for more than 60 days in any calendar year shall make a financial disclosure report to the Chief Justice containing the information required

by section B of this Canon for the portion of that year in which the judge held office. The report shall be filed with the Executive Clerk of the Supreme Judicial Court on or before May 15 of the succeeding year.

(3) All reports required to be filed by this section shall be made on forms which the Supreme Judicial Court shall adopt, and may from time to time amend, by administrative order. The forms shall be distributed by the Executive Clerk of the Supreme Judicial Court.

(4) The Chief Justice may, for good cause shown, grant an extension of the time to file any report required by this section for a period not to exceed 90 days.

(5) Disclosure of a judge's income, investments, liabilities, or other financial interests is required only to the extent provided in this Canon and Canon 3E.

B. Contents of the Report.

(1) Each report filed pursuant to subsection A(2) of this Canon shall contain the following information for the period for which the report is filed:

(a) The source and type of any income received in money or in kind having a value in excess of \$ 1,000 in the aggregate from any single source.

(b) The source and a brief description of any honorarium received.

(c) The source and a brief description of any gift, bequest, or favor received in money or in kind having a value in excess of \$ 300 in the aggregate from any single source, not including gifts, bequests, or favors that may be accepted pursuant to Canon 4D(5)(a), (c), (d), and (g).

(d) The source and a brief description of any reimbursement or payment received in money or in kind by the judge for the judge's own expenses or those of a spouse or dependent child in excess of \$ 300 per person in the aggregate from any single source, not including reimbursement or payment of the judge's expenses by the State of Maine or a political subdivision thereof.

(e) A brief description of any interest in real property held at any time during the year.

(f) A brief description of any interest in tangible or intangible personal property exceeding \$ 1,000 in value and held at any time during the year in a trade or business or for investment or the production of income; provided that a personal indebtedness owed by a relative need not be reported.

(g) The identity and a brief description of any indebtedness or other liability exceeding \$ 1,000 in the aggregate owed at any time during the year to any single creditor, not including (i) alimony, child support, and separate maintenance obligations; (ii) any loan from a relative; (iii) any mortgage or other loan held by a lending institution and secured by real property that is a personal residence of the judge or by a personal motor vehicle or other tangible personal property, provided that the loan is one made in the regular course of business on the same terms generally available to persons who are not judges; and (iv) any credit card or revolving charge account, or similar credit arrangement, not in arrears on the final date of the reporting period.

(h) The identity of any position held at any time during the year as a fiduciary of a trust, estate, or person or as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of a business or nonprofit enterprise.

(i) The title, court, and docket number of litigation pending at any time during the year in which the judge is a party in interest, not including suits against the judge for acts in an official capacity.

(j) The identity of any pension or other retirement or disability plan from which the judge has received at any time during the year, or may become eligible to receive, benefits, not including any plan administered by a state or the federal government.

(2) Each report filed as required by this Canon shall separately set forth, to the extent known by the judge or ascertainable by reasonable inquiry, the following information respecting the spouse or any dependent child of the judge:

(a) Under paragraph B(1)(a), the type of economic activity representing each source of income of \$ 1,000 or more received by a spouse or dependent child.

(b) Under paragraphs B(1)(b), (c), and (d), honoraria, gifts, bequests, favors, and expense reimbursements or payments received by a spouse or dependent child that are received jointly with the judge or solely as a result of the recipient's relationship to the judge.

(c) Under paragraphs B(1)(e), (f), (g), and (j), property interests, liabilities and pension, retirement or disability plans of a spouse or dependent child that are held jointly with the judge; or are derived or payable from the income, assets, or activities of the judge; or provide, or are expected to provide, any substantial financial or economic benefit or detriment to the judge.

(d) Under paragraph B(1)(h), the identity of any fiduciary or other position held jointly with the judge, or held in connection with an interest or enterprise from which the judge receives, or may be expected to receive, any substantial financial or economic benefit.

(3) Upon the request of a judge and a showing of good cause for nondisclosure, the Chief Justice may order that specific information required to be reported under this Canon shall be treated as confidential. Such information shall be omitted from the judge's report with a note stating that the omission is pursuant to the order of the Chief Justice. The omitted information shall be set forth in an appendix to the report. The request for nondisclosure and the appendix shall thereafter be retained by the Executive Clerk of the Supreme Judicial Court in a confidential file for the period for which the report is retained under subsection C(1) of this Canon. The request and appendix shall not be available for public inspection under subsection C(2).

(4) An item that is required to be described under subsection (1) of this section is sufficiently described if the report lists the type of any asset or liability and the name and principal type of economic activity of any individual or entity that is, (a) the source of any income or other benefit received, (b) a debtor or other party liable for satisfaction of the judge's interest in any intangible asset held, or (c) a creditor on any liability owed. The report need not specify the amount or value of any income, benefit, asset, or liability.

C. Public Access.

(1) The Executive Clerk of the Supreme Judicial Court shall retain all reports filed under this Canon on file for a period of six years from the date of filing.

(2) Except as provided in subsection B(3) of this Canon, the Executive Clerk shall permit any person to inspect a report on file and shall furnish a copy of such report to any person for a fee reflecting the actual cost of reproduction and mailing.

D. Failure to File. The Executive Clerk of the Supreme Judicial Court shall review all reports filed within 45 days of the filing deadline and shall promptly notify any judge who has failed to file a report or provide complete information. A copy of the notification shall be sent to the Chief Justice. If a judge does not, within 15 days of such notification, file the required report or information or receive an extension of the filing deadline under subsection A(4) of this Canon, the Executive Clerk shall refer the matter to the Committee on Judicial Responsibility and Disability for appropriate action.

E. Judges of Probate. A judge of probate shall make initial and annual financial disclosure reports to which the public has access as provided in this Canon, with the following exceptions:

(1) A report of self-employment income under paragraph B(1)(a) need only specify the principal type of economic activity from which that income is derived and, if the judge is associated with a partnership, firm, professional association, or similar business entity, the name and major areas of economic activity of that entity; provided that, if the judge is a practicing lawyer, the major areas of practice of the judge and any firm or other professional entity with which the judge is associated shall also be reported.

(2) Honoraria, gifts, bequests, favors, and expense reimbursements or payments need be reported under paragraphs B(1)(b)-(d) of this Canon only if they are received by the judge in the course of, or as a result of, activities undertaken in an official capacity or are received from a party or other person whose interests have come or are likely to come before the judge.

(3) The identity of a position held in the ordinary course of the practice of law and reportable under subparagraph B(1)(h) need not be reported if to do so would breach a professional obligation of confidentiality concerning the affairs of a client of the judge, but the general fact of such activity shall be reported.

(4) Campaign contributions received and duly reported as required by law by a judge of probate as a candidate for that office need not be reported under this Canon.

MAINE CODE OF JUDICIAL CONDUCT

PART II. GENERAL PROVISIONS

SECTION 1. APPLICABILITY

A. In General. Every justice, judge, active retired justice, and active retired judge of the Supreme Judicial, Superior, District, and Administrative courts shall comply with all provisions of this Code. Every judge of probate shall comply with this Code except as provided in subsection B(1) below.

B. Judges of Probate. A judge of probate

(1) is not required to comply

(a) except while serving as a judge, or as to matters pending in the judge's court, with Canons 3B(9) and 4C(1); and

(b) at any time with Canons 4D(3), 4E(1), 4F, 4G, 4H, and 5A(1)(a)-(d).

(2) shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto.

C. Candidates for Judicial Office. This Code is applicable to candidates for judicial office in accordance with Canon 5D, provided that a successful candidate for judicial office shall comply with all provisions of this Code between the time of confirmation of appointment or certification of election and swearing in.

SECTION 2. EFFECTIVE DATE; TIME FOR COMPLIANCE

This Code takes effect on September 1, 1993. All persons to whom this Code is applicable on that date, and all persons to whom this Code thereafter becomes applicable, shall comply immediately with all provisions of this Code except Canons 2C, 4D(1), 4D(3), and 4E and should comply with those provisions as soon as reasonably possible and shall do so in any event within the period of one year.

SECTION 3. DEFINITIONS

A. Appropriate Authority. "Appropriate authority" denotes an authority with responsibility for initiation of disciplinary process with respect to the violation to be reported.

B. Candidate. A candidate is a person seeking appointment, reappointment, election, or reelection to public office. A person becomes a candidate for appointment or reappointment to office when the nominating or appointing authority either requests a formal submission of credentials by the person or announces that the person is under consideration or has been nominated for office. A person becomes a candidate for election or reelection to public office as soon as he or she makes a public announcement of candidacy, files nomination papers, or authorizes solicitation or acceptance of contributions or support.

C. Court Personnel. "Court personnel" denotes employees of the Judicial Department or the several counties while engaged in support of a judge in the performance of judicial duties, but does not include the lawyers in a proceeding before a judge.

D. De Minimis. "De minimis" denotes an interest too trivial to raise reasonable question as to a judge's impartiality.

E. Economic Interest. "Economic interest" denotes ownership of a more than de minimis legal or equitable interest, or a relationship as officer, director, advisor or other active participant in the affairs of a party, except that:

(1) ownership of an interest in a mutual or common investment fund that holds securities is not an economic interest in such securities unless the judge participates in the management of the fund or a proceeding pending or impending before the judge could substantially affect the value of the interest;

(2) service by a judge as an officer, director, advisor or other active participant in any organization as permitted by Canon 4C(3), or service by a judge's spouse, parent or child as an officer, director, advisor or other active participant in any organization does not create an economic interest in securities held by that organization;

(3) a deposit in a financial institution, the proprietary interest of a policy holder in a mutual insurance company, of a depositor in a mutual savings association or of a member in a credit union, or a similar proprietary interest, is not an economic interest in the organization unless a proceeding pending or impending before the judge could substantially affect the value of the interest;

(4) ownership of government securities is not an economic interest in the issuer unless a proceeding pending or impending before the judge could substantially affect the value of the securities.

F. Election. This term includes primary, general, and special elections.

G. Fiduciary. "Fiduciary" includes such relationships as personal representative, executor, administrator, trustee, and guardian.

H. Honorarium. "Honorarium" denotes a payment of money or any thing of value for an appearance, speech, or article, not including reimbursement or payment for actual and necessary expenses for travel, food, and lodging incident upon an appearance or speech.

I. Income. "Income" includes but is not limited to compensation for services rendered (other than amounts paid by the state of Maine for performance of judicial duties), dividends, interest, rent, royalties, capital gains, and amounts received from a trade or business, trust, estate, pension (other than amounts paid under a plan administered by a state or by the federal government), or other financial arrangement. "Income" does not include honoraria, gifts, bequests, favors, reimbursement or payment of expenses, or payments of alimony, child support, or separate maintenance.

J. Knowingly, Knowledge, Known, or Knows. "Knowingly," "knowledge," "known," or "knows" denotes actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances.

K. Law. "Law" denotes court rules as well as statutes, administrative rules and regulations, constitutional provisions, and decisional law.

L. Member of the Judge's Family. "Member of the judge's family" denotes a spouse, child, grandchild, parent, grandparent, or other relative by blood or marriage or a person with whom the judge maintains a close personal relationship.

M. Nonpublic Information. "Nonpublic information" denotes information that is made confidential or is impounded by law or court order.

N. Political Organization. "Political organization" denotes a political party or other group, the principal purpose of which is to further the election or appointment of candidates to public office.

O. Require. The rules prescribing that a judge "require" certain conduct of others are, like all of the rules in this Code, rules of reason. The use of the term "require" in that context means a judge is to exercise reasonable direction and control over the conduct of those persons while they are subject to the judge's direction and control.

P. Third Degree of Relationship. The following persons are relatives within the third degree of relationship: great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew or niece.

SECTION 4. TITLE

This Code may be known and cited as the Maine Code of Judicial Conduct.